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Paper No. 3

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In re Application of: D. S. Gluck et al.
Application No.: 09/965,597
Filed: September 26, 2001
For: AUTOMATED NEW ENERGY
TECHNOLOGY CONSULTING AND
DEMAND AGGREGATION SYSTEM
AND METHOD

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed September 26, 2001 under 37 C.F.R. §102(c) to make the above-identified application special. Due to the content of the petition, it will be treated alternately under M.P.E.P. §708.02(V), Environmental Quality, and M.P.E.P. §708.02(VI), Energy.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section V, must be accompanied by the showing that the application is for an invention which will materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e., air, water, and soil. A petition under M.P.E.P. §708.02, Section V, should be accompanied by statements under 37 C.F.R. 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office explaining how the invention materially contributes to the restoration or maintenance of one of these life-sustaining elements. No fee for such a petition is required.

The petition does not meet the requirements for special status in that there is no showing that the invention *materially contributes* to the restoration or maintenance of one of the life-sustaining elements as defined in M.P.E.P. §708.02(V). Petitioner states a conclusion that the "invention also materially enhances the quality of the environment". The support provided in the petition for this conclusion appears to be the assertion that an "important object of the invention is to provide energy consulting services to customers in the field of distributed, non-polluting energy generation technologies". However, since the invention is indeed directed to energy consulting services, there are no material contributions to the restoration or maintenance of the environment. No advancements in air, water and/or soil restoration or maintenance technology

are presented. What is presented are techniques for marketing existing technology. Further, as evidenced by the claims, applicant has indicated that the scope of the invention includes methods that include no actual environmental benefit. See claims 45-46 for example which recite in relevant part merely calculating and reporting the availability and costs of energy-related products or services and encouraging the customer to contribute contact information of others in return for a commission. Also note claim 1 which ends with merely "arranging" the purchase and installation of energy systems. As a result, the invention itself does not materially contribute to the restoration or maintenance of life sustaining elements since it focuses on marketing the environmental contributions of others.

Alternately, considering this petition with respect to energy utilization and development, a grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section (VI), must be accompanied by a showing that the application is for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances etc. Such petitions should be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above. No fee for such a petition is required.

The petition does not meet the requirements for special status in that there is no showing that the invention *materially contributes* to the discovery or development of energy resources or the more efficient utilization and conservation of energy resources. Again, the invention is directed to energy consulting services, and focuses on marketing the contributions of others. No advancements in the techniques for discovery or development of energy resources or the more efficient utilization and conservation of energy resources are presented, and as above, the scope of the claims do not necessarily include an actual energy benefit.

The petition is **DENIED**. Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement giving the information as outlined above. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.



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